

The 13th March, 1986

No. 9/9/86-6Lab./2109.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the Workman and the management of M/s. Bharat Enterprises, Plot No. 17, Sector 6, Faridabad:—

BEFORE SHRI R.N. BATRA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA,  
FARIDABAD

Reference No. 525/1983

*between*

SHRI KHACHERU SINGH, WORKMAN AND THE MANAGEMENT OF M/S BHARAT ENTERPRISES, PLOT NO. 17, SECTOR-6, FARIDABAD

*Present:*

Shri Jawahar Lal for the workman.

Shri R.C. Sharma for the Management.

#### AWARD

In exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the following dispute between Shri Khacheru Singh, Workman and the Management of M/s Bharat Enterprises, Plot No. 17, Sector-6, Faridabad to this Tribunal for adjudication:—

Whether the termination of services of Shri Khacheru Singh was justified and in order? If not, to what relief is he entitled?

2. Notices were issued to both the parties. The claimant in his claim-statement, dated 7th September, 1984 alleged that he was employed in the respondent factory on 5th November, 1977 as helper and was drawing Rs. 240 per month as wages. It was further alleged that the services of the claimant were terminated illegally on 17th March, 1983 when the claimant demanded facilities from the Management and that the provisions of Section 25-F of the Industrial Disputes Act, 1947, were not complied with. It was, therefore, prayed that the claimant be stated with full back wages.

3. The Management in its written statement, dated 10th October, 1984 pleaded that the claimant was appointed in the first instance as casual worker on 2nd September, 1982 when he left the service on 5th October, 1982 receiving all his dues. It was further pleaded that the claimant was again appointed with effect from 1st March, 1983 on casual basis and his services were terminated on 16th March, 1983 as the Management was not satisfied with his work. It was also pleaded that the provisions of Section 25-F of the Industrial Disputes Act, were not attracted in the present case. It was further pleaded that the claimant was gainfully employed.

4. The claimant in his rejoinder, dated 12th November, 1984 reiterated the pleas taken in the claim-statement.

5. On the pleadings of the parties, the following issues were framed on 3rd December, 1984:—

(1) Whether the claimant was appointed on casual basis and left the service of his own accord on 5th October, 1982 and had received his dues from the Management and then served from 1st March, 1983 to 15th March, 1983 as alleged? OPM

(2) Whether the claimant is gainfully employed as pleaded? OPM

(3) Whether the termination of service of Shri Khacheru Singh justified and in order? If not, to what relief is he entitled?

6. It may be mentioned that the Management examined one witness while the claimant examined two

witnesses and documents Ex. W-1 and W-2 have been tendered into evidence. After going through the entire evidence and hearing the representatives of both the parties, my findings on the above issues are as under :—

**Issue No. 1 :**

7. The management examined MW-1 Shri Vikram Singh, who stated that he was working in the respondent factory. He further stated that he had brought the attendance register since 1977 and that the claimant joined service on 2nd September, 1982 and worked upto 5th October, 1982 when he left the job. He further stated that the claimant again joined service on 1st March, 1983 and worked upto 15th March, 1983. He also stated that the claimant never worked in the respondent factory since 1977 to 31st August, 1982.

8. WW-1 Shri Khacheru Singh claimant stated that he was employed as Helper and that no appointment letter was issued to him nor pay slip, leave book etc. were given to him. He further stated that when he demanded these facilities, he was turned out by the Management in March, 1983 and that no notice or compensation was given to him. Ex. W-1 is the copy of the complaint while Ex. W-2 is the attendance card produced by him. WW-2 Shri Raj Singh stated that he knew the claimant and that the claimant told that he was working in the respondent factory for the last 5/6 years. He further stated that he was employed in the respondent factory in 1981 and was turned out in 1983 and that no appointment letter, pay slip, leave book etc. were issued to him by the respondent factory. He also stated that when the claimant demanded these facilities, he was turned out by the Management.

9. The above evidence shows that MW-1 Shri Vikram Singh had brought the attendance register and deposed that the claimant remained in service from 2nd September, 1982 to 5th October, 1982 and again joined service on 1st March, 1983 and worked upto 15th March, 1983. The oral testimony of Shri Khacheru Singh claimant and WW-2 Shri Raj Singh to the effect that the claimant joined service in 1979 cannot be accepted because the same does not find corroboration from the documentary evidence. Ex. W-1 is the copy of the complaint, which was made on 17th March, 1983 when the claimant was no more in service of the respondent factory because according to the Management he worked upto 15th March, 1983. The attendance card Ex. W-2 shows that the claimant remained in employment of the respondent factory from 1st March, 1983 to 15th March, 1983. Consequently no attendance card relating to the prior period has been produced by the claimant to show that he joined service of the respondent factory in 1979. The witness produced by the Management has deposed that on the basis of the entries made in that register, the claimant remained in service from 2nd September, 1982 to 5th October, 1982 and again 1st March, 1983 to 15th March, 1983 and there is no cogent evidence in rebuttal, as mentioned above. Consequently, the claimant was a casual worker and served in the respondent factory from 2nd September, 1982 to 5th October, 1982 and then from 1st March, 1983 to 15th March, 1983. The issue is decided accordingly in favour of the Management.

**Issue No. 2:**

10. No evidence has been led by the Management to show that the claimant was gainfully employed. The issue is decided accordingly against the Management.

**Issue No. 3:**

11. In view of my findings on issue No. 1 above, the provisions of Section 25-F of the Industrial Disputes Act, 1947, are not attracted to the facts of the present case because the claimant did not render continuous service of 240 days, but, on the other hand, he served for a period of 49 days only and as such the termination of service of the claimant was justified and in order and the claimant is not entitled to any relief. The award is passed accordingly.

R.N. BATRA,

Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

Dated, the 25th February, 1986.

Endst. No. 137, 26th February, 1986.

Forwarded (four copies) to the Commissioner & Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under Section 15 of the Industrial Disputes Act, 1947.

R. N. BATRA,

Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.